REMARKS

Claims 1-3, 5-7, 14-21 and 23 are all the claims pending in the application. In response to the Office Action, Applicant respectfully traverses the constructive election and withdrawal of claims 8, 9 and 24. Regarding the election of claimed species regarding invention I, Applicant respectfully traverses on the grounds that a generic claim can include a reasonable number of species so that a search and examination of all the species at one time would not impose a serious burden on the Examiner. Applicant submits that this application presents this situation.

Further, Applicant respectfully submits that the subject matter of all of claims 1-9 and 14-24 is sufficiently related that a thorough search for the subject matter of any one group of claims would overlap a search for the subject matter of the remaining claims. Thus, Applicant respectfully submits that the search and examination of the entire application could be performed without serious burden to the Examiner and not require an election of species. Nonetheless, to facilitate prosecution, Application has canceled claims 8, 9 and 24 without prejudice or disclaimer. Accordingly, Applicant reserves the right to file a divisional application pertaining to the canceled claims in the future.

Regarding claim 4, Applicant has canceled this claim without prejudice or disclaimer as Applicant has incorporated this claim into independent claim 1. Further, Applicant has canceled claim 22 without prejudice or disclaimer as indicated below. Claims 1-3, 5-7, 14-21 and 23 stand rejected on prior art grounds. Applicant respectfully traverses the prior art rejections based on the following discussion.

I. 35 U.S.C. Section 132 Rejection

Applicant respectfully traverses this rejection as the specification expressly indicates that the size of the reflective surface 6 will be similar in size or slightly larger than the size of the surface/window 3. Accordingly, the language of claim 22 is supported by the original disclosure and no new matter has been added despite the assertion in the Office Action. Nonetheless, in order to facilitate prosecution, Applicant, as indicated above, has canceled claim 22 without prejudice or disclaimer. (See Office Action, Page 2-3, Paragraph 3; and Application, Page 7, lines 6-9).

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejection.

II. The Claim Objections

Regarding the objections to claims 17-21, the Applicant respectfully traverses the objections. The specification is consistent with the claim language. For purposes of viewability, Figure 1 indicates an Angle A exists between the reflective surface 6 and the line of sight 10. Using basic geometry by one of ordinary skill in the art, the same Angle A also exists between the reflective surface 6 and the line of sight 4 due to the presence of the right angle formed between the line of sight 10 and the line of sight 4. Accordingly, this angular configuration in Figure 1 is consistent with the explicit language of the specification. Thus, the claims are consistent with the specification language and Figure 1. (See Page 5, line 16-Page 6, line 3; and Page 7, lines 10-15; and Figure 1).

Regarding the second objection, the specification expressly indicates that "angle B between line of sight 10 and the reflective surface 6 is between minus ninety degrees and plus ninety degrees horizontally." This statement is consistent with Figure 2 as the reflective surface 6 can be rotated in a horizontal plane between minus ninety degrees and positive ninety degrees as indicated by Angle B around a vertical axis as depicted in Figure 2. Accordingly, the claims are consistent with the specification and Figure 2. (See Page 5, line 16-Page 6, line 3; and Page 7, lines 10-15; and Figure 2).

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejection.

III. The Prior Art Rejections

Claims 1, 2, 6, 7 and 14-22 are rejected under 35 U.S.C. Section 102(b) as being anticipated by Totten. ("Totten")(U.S. Patent No. 187,432). Claims 1, 3, 4, and 23 are rejected under 35 U.S.C. Section 102(b) as being anticipated by Weber. ("Weber")(U.S. Patent No. 4,108,551). Claim 5 is rejected under 35 U.S.C. Section 103(a) as being unpatentable over Weber as applied to claims 1 and 4 above.

A. The Rejection Based on Totten

Regarding claim 1, Totten fails to disclose, teach or suggest the features of independent claim 1, which incorporates dependent claim 4, and related dependent claims 2, 6, 7 and 14-22, including the reflective surface is mounted to a mounting mechanism and a base, the reflective surface rotates on the mounting mechanism in at least two dimensions in relation to the base. (See Application, Page 5, lines 6-14; Page 7, line 10-20; Page 8, lines 1-9; and Figures 1-4).

Indeed, Applicant agrees with the Examiner that Totten does not disclose, teach or suggest the feature of dependent claim 4, which has been incorporated into the above amended independent claim

1. Accordingly, Totten is deficient. Therefore, Applicant's invention is a distinct structure compared to the conventional Totten structure. Thus, Totten does not disclose, teach or suggest including the reflective surface is mounted to a mounting mechanism and a base, the reflective surface rotates on the mounting mechanism in at least two dimensions in relation to the base. (See Office Action, Page 3, Paragraph 6; and Page 4, Paragraph 7).

B. The Rejection Based on Weber

Regarding claim 1, Weber fails to disclose, teach or suggest the features of independent claim 1, which incorporates dependent claim 4, and related dependent claims 2, 3, 5-7 and 14-23, including the reflective surface is mounted to a mounting mechanism and a base, the reflective surface rotates on the mounting mechanism in at least two dimensions in relation to the base. (See above).

Indeed, Figures 1-4 of Weber merely teach a conventional periscopic device for observation as well as sighting and measuring of a target range. The device includes a casing 9, which includes a sight tube 3, a fixed prism 3a within the sight tube 3 for bending an axis of vision, a Pechan prism 12 located between the fixed prism 3a and the fixed eyepiece, and a head portion 1 above the fixed prism 3a and eyepiece. The head portion 1 includes a transparent window 10, a mirror 5 substantially across from the transparent window where the mirror 5 is contained in a box 6. Based on this configuration, an image in the transparent window 10 at the head portion 1 can be seen using the eyepiece.

Contrary to the assertion in the Office Action, the fixed prism 3a is fixed to the casing 9 and the mirror 5 is also in a fixed position by being contained in the box 6, and thus neither the fixed prism 3a nor the mirror 5 are rotatable in relation to the casing 9. Indeed, the casing 9 is mounted so as to rotate about a bearing axis 8. As a result, the fixed prism 3a and the mirror 5 in conjunction with the casing 9 (what may be structurally analogized to Applicant's base) may rotate due to a rotation of the

casing 9, not the reflective surface rotates on the mounting mechanism, let alone, the reflective surface rotates on the mounting mechanism in at least two dimensions in relation to the base as claimed by Applicant. Accordingly, the Weber periscopic device is structurally distinct from Applicant's invention. Therefore, this configuration is consistent with the function of a periscope. Thus, Weber does not disclose, teach or suggest including that the reflective surface is mounted to a mounting mechanism and a base, the reflective surface rotates on the mounting mechanism in at least two dimensions in relation to the base. (See Office Action, Page 4, Paragraph 7; and Weber, Column 1, lines 5-15; and Column 3, lines 5-48; and Figures 1-4).

In contrast, as indicated briefly above and in the previous amendment of September 15, 2005, Applicant's invention includes an improved aiming device for a weapon or weapon system. The invention includes, in part, the reflective surface 6 mounted to the base 1 using a mounting mechanism 7, or a similar mounting mechanism, which permits the reflective surface 6 to move in two or three dimensions. This structural configuration allows a user 12 to adjust a position of the reflective surface 6 at various angles to the reference 5 in order to obtain a line of sight 10 between the user 12 and the reflective surface 6. Accordingly, the reflective surface 6 may rotate in at least two dimensions in relation to the base 1, that is, independent of any movement of the base 1, unlike the Weber structure. (See above).

As clearly indicated in Figures 1-3, Appicant's reflective surface 6 can rotate in at least two dimensions in relation to the base 1, whereas Weber only discloses, in part, that the combination of the fixed mirror 3a and mirror 5 in conjunction with the casing 9 may rotate due to rotation of the casing 9 about the bearing axis 8 not independent, or in relation to, the casing 9. (See above).

A final structural difference is that Weber only indicates, at best, a front aiming device not an aiming device 2, including a reference 5, which may be a laser light reference, as disclosed by Applicant

Accordingly, contrary to the assertion in the Office Action, Weber only discloses a fixed mirror 3a and fixed mirror 5, which do not appear to rotate in relation to, or independent of, the casing 9. Therefore, Applicant's invention is a distinct structure compared to the conventional Weber structure. Thus, Weber does not disclose, teach or suggest including the reflective surface is mounted to a mounting mechanism and a base, the reflective surface rotates on the mounting mechanism in at least two dimensions in relation to the base. (See above).

In addition to the above, please note, regarding claim 5, Applicant traverses the assertion that it would have been obvious to one of ordinary skill in the art to use a ball and socket or equivalent mounting mechanism that would allow the reflective surface to be pivotable about an axis. Indeed, the Weber periscope device is configured so that the user rotates the casing of the periscope device to focus the fixed mirrors, and related structural elements, on the image. Again, this structural arrangement appears consistent with the structure, and function, of other conventional periscopes. Accordingly, there is no motivation or reason to have moveable reflective surfaces nor does it appear that the user could actually reach the mirrors for adjustment based on the Weber configuration. Thus, Weber teaches away from including reflective surfaces, which are pivotable about an axis.

Based on the above, the Applicant traverses the assertion that Weber discloses or teaches Applicants' invention of independent claim 1, and related dependent claims 2, 3, 5-7, 14-21 and 23.

For the reasons stated above, the claimed invention as defined by independent claim 1, and related dependent claims 2, 3, 6, 7, 14-21 and 23, including dependent claim 5, is fully patentable over the cited reference.

IV. Formal Matters and Conclusions

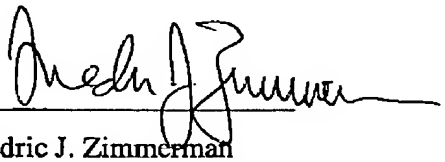
In view of the foregoing, Applicants submit that claims 1-3, 5-7, 14-21 and 23, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Please charge any deficiencies and credit any overpayment to Attorney's Deposit Account Number 50-1114.

Respectfully submitted,

Dated: 28 March 2006



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